

Spring Budget 2024 – Law Society response

24 January 2024



Introduction

The Law Society is the independent professional body that works globally to support and represent solicitors, promoting the highest professional standards, the public interest, access to justice and the rule of law.

The economic value of legal services

Legal services are an economic powerhouse, worth £60bn annually to the UK economy. The sector is a commercial force multiplier, as the advice lawyers provide is essential in allowing other businesses to function effectively, overcome day-to-day issues and focus on driving the economy. A strong legal services sector underpins a strong economy across the board.

As employers, law firms can be found in every region, city and town across England and Wales. Over 1% of the UK workforce is employed by legal services. The sector is also uniquely productive, with an average contribution per employee of £100,500 – almost double the national average.

The prosperity our sector creates is not limited to a single city or region. Growing legal hubs can be found from Bristol to Newcastle, spreading the benefits of the sector throughout the UK. There are over 73,000 solicitors working outside London and this figure is growing, having increased by more than 16% between 2009 and 2019.

Beyond our own borders legal services are one of the UK's most valuable exports. Total exports of UK legal services in 2021 reached £6.6 billion. English law governs substantial amounts of global trading, including £545 trillion in over the counter derivatives transactions and £10 trillion in metals trading.¹ London meanwhile remains the most attractive centre for commercial litigation and international arbitration.

The value of the wider justice system

Legal services do not operate in a vacuum and their success is built upon the wider justice system. Backlogs in the courts, crumbling buildings and a legal aid system in decline all reverberate across the sector and can damage the UK's leading position as a global legal centre.

Investing in both our courts and legal aid system is an important way the Government can showcase its commitment to maintaining the UK as a world leading place to do business.

The challenges law firms face

The Law Society recently commissioned research and analysis, carried out by YouGov and the Centre for Economic and Business Research respectively, which highlighted the barriers small and medium legal businesses are facing in achieving their full economic potential. This research revealed that the top issues facing SME firms are:

- Recruitment and retention
- Operational and financial costs
- Technology and innovation

¹ <https://www.lawsociety.org.uk/topics/research/international-data-insights-report>

The package of reforms we advocate for in this submission are directly based on this research and are designed to build on the existing economic strengths of our sector while unleashing the latent productivity and economic potential of the sizeable SME segment of the legal services sector, all at minimal cost to the Government.

There is a national dividend to be grasped here. Just a 1% improvement in productivity in the legal services sector could increase annual investment in the UK economy by £152m by 2050.²

The economic opportunity for the Government

The Government has put forward ambitious missions to address inflation and to grow the economy. Legal services are integral to achieving these missions and our sector stands ready to play its part.

By implementing the changes and policies outlined in this submission, legal services, from the high street legal practice to the global law firm, can rapidly be unleashed to help drive innovation and widespread economic growth across all our communities.

We are calling for the Government to:

1. Remove the investment penalty and extend full expensing to legal partnerships.
2. Broaden the National Skills Fund to provide retraining for employees within the legal sector.
3. Boost support for legal businesses, especially SMEs, to take on apprentices.
4. Create a grant scheme to support small and medium-sized law firms with the costs of adopting productivity boosting LawTech, modelled on Singapore's Tech-accelerate for Law scheme.
5. Expand the Cyber Essentials Programme so more legal SME firms can access the support it provides.
6. Provide courts with the funding necessary to carry out repairs, remove RAAC and replace lost capacity while repair works take place.
7. Immediately invest £30m into criminal legal aid rates to make up the shortfall in the recommendations of the Government's independent review of the sector.
8. Inject £11.3m into early advice for civil legal aid to prevent the system's collapse while the ongoing review takes place.

² <https://assets.kpmg.com/content/dam/kpmg/uk/pdf/2020/10/kpmg-contributions-of-legal-services-sector-in-the-uk.pdf>

Recommendations

1. Remove the investment penalty on law firms and partnerships

Legal services are one of the most productive sectors in the UK economy, and with the rise of AI, LawTech and other technological shifts many are looking to invest in IT and other infrastructure to allow them to make the most of the opportunities innovation offers.

However, large parts of the sector are being disadvantaged from investing as they are prevented from taking advantage of the Treasury's flagship full expensing scheme. This has created, in effect, an investment penalty on law firms.

Currently, full expensing applies only to companies that pay corporation tax. Many law firms, including most of the largest and highest value law firms, operate under the partnership model and so partners are taxed individually. This means they do not pay corporation tax, instead contributing to the tax system individually, and so cannot access the scheme.

This creates an odd situation where an insurance company could invest in its IT infrastructure and receive the allowance, but a law firm next door would be unable to. The Law Society has consulted several leading firms and practitioners who have near unanimously indicated that inclusion in the scheme would allow them to boost their investment and reap the rewards of increased productivity.

For example, one firm has told us the extension of full expensing would be worth a £50m write down over three years based on one project they have currently been undertaking, allowing them to substantially invest in and grow their firm.

Having just recently made full expensing permanent, extending the scheme to partnerships would be another significant pro-business measure the Government could take to unlock increased investment and economic rewards for the UK.

We recommend:

- **Remove the investment penalty and extend full expensing to legal partnerships.**

2. Support small law firms to invest in skills and innovation

Legal services provide good, skilled jobs across the country and are a driver of local growth. Two thirds of those employed by the sector work outside of London.³ Cities like Cardiff, Leeds and Manchester are thriving legal hubs, while almost every high street in every village and town across the country will feature a local solicitor's office. Our sector can use its geographic diversity to help bring good jobs to all our regions and upskill the workforce.

However, our research with YouGov found that many legal SMEs are struggling to attract staff with the right hard and soft skills for the workplace. At the same time, we know the UK is facing a skills gap of around 3 million technology jobs by 2025, and around 7,000 of these are specifically in the legal sector.⁴

³ <https://www.thecityuk.com/our-work/legal-excellence-internationally-renowned-uk-legal-services-2022/>

⁴ <https://msit.powerbi.com/view?r=eyJrIjojZWMyNjA0YzAtZGY4Zi00MTI1LTk4MjQ0NW11NTA5NDY1MzRjliwidCI6IjcyZjk4OGJmLTg2ZjEtNDZhZi05MWFjLTJkN2NkMDExZGI0NyIsImMiOiV9>

To maintain the leading position of legal services and enable the sector to continue providing high quality jobs across the country, the Government should broaden the National Skills Fund to provide retraining for employees in the legal sector. This would help legal SMEs acquire the skills needed to adopt the latest technology and boost productivity while removing the burden of retraining from small businesses with limited resources.

We recommend:

- **Broaden the National Skills Fund to provide retraining for employees within the legal sector.**

3. Make apprenticeships more financially viable for small law firms

The Prime Minister and Chancellor have both highlighted and reiterated their commitment to apprenticeships. However, for many firms are not a viable option.

Apprenticeships offer an important route for small businesses to take on talent and increase the skills of their workforce. Apprenticeships are also important drivers of social mobility and can be particularly valuable for SME firms based outside of the large cities.

For legal services, legal apprenticeships provide an alternative, non-graduate route into the solicitor profession and can also support those seeking a change in their career. For those seeking an alternative to university, but still wanting to pursue a legal career, it can be an ideal option, providing a mix of on and off the job training.

However, taking on apprenticeships can be a substantial financial commitment, which is especially challenging for legal SMEs.

In 2022, the Government offered a £1,000 financial incentive to businesses for each apprentice hired. However, in the same year only 1.5% of the UK's active employers decided to take on apprentices.

The Government should use the Spring Budget to outline support for the legal sector and for students to encourage the take up of apprenticeships. This could take the form of an increase in funding for apprentice wages, decreasing the burden on legal SMEs of hiring apprentices. This would have a dual impact of upskilling students, encouraging them into a legal career, while supporting legal SMEs across the country to invest in apprentices.

We recommend:

- **Boost support for legal businesses, especially SMEs, to take on apprentices.**

4. Harness digital productivity

The UK is a global hub for legal technology, or LawTech, but we face competition from across the world. Our competitor jurisdictions – notably Singapore, Hong Kong and the Netherlands – are investing heavily in LawTech, and the UK risks seeing its competitive edge evaporate.

Technology matters to the sector and provides opportunities to boost productivity. A Law Society survey of 656 solicitors found that 60% intend to use LawTech more frequently in the next five years. Over 50% agreed that LawTech would increase their productivity.

Many of the law firms working in this space are small and medium-sized, which means they often do not have the resources their larger counterparts can draw upon to invest in new technologies and drive productivity.⁵

Through targeted investment we can support these smaller innovators and enhance the UK's edge in this field, helping to achieve the Government's goal of making the UK a scientific and technology superpower.

The Government could follow the successful example of Singapore: from 2019, Singapore's Ministry of Law and the Law Society of Singapore jointly operated the Tech-celerate for Law scheme which provides grants to SME law firms covering 80% of the first-year costs of adopting LawTech, up to a maximum of S\$30,000 (around £16,500). Following the end of the scheme, in 2022, the Ministry of Law developed and launched the Legal Technology Platform, a matter management and collaboration tool aimed at supporting SME law firms, with a supporting funding programme covering up to 70% of qualifying costs of adopting select pre-scoped IT solutions, up to the same maximum.

Elsewhere, the Canadian Digital Adoption Plan provides grants to SMEs to update the digital aspects of their operations, up to a maximum of CAD\$15,000 (around £8,800), with help to reduce overhead costs, speed up transactions, respond to clients more quickly, and improve operational logistics. The Hong Kong Innovation and Technology Commission has a similar Technology Voucher Programme that aims to support organisations in using technological services and solutions to improve productivity or upgrade their business processes, up to a maximum of HK\$600,000 (around £60,500).

A similar scheme in this country would benefit thousands of smaller law firms, especially those based in towns and in rural areas, helping to support new legal clusters and create more skilled and good jobs in the areas that need them.

Such investment in innovation would also support the provision early legal advice to consumers, at lower cost, improving their access to justice.

We recommend:

- **Create a grant scheme to support small and medium-sized law firms with the costs of adopting productivity boosting LawTech, modelled on Singapore's Tech-celerate for Law scheme.**

5. Help law firms address the cybersecurity challenge

Law firms of all sizes, but especially smaller firms, are particularly vulnerable to cyber threats. As the National Cyber Security Centre (NCSC) recently highlighted in its report on the threat to the legal sector, law firms routinely handle large volumes of money and highly sensitive information which can make them a target for cybercriminals.⁶

This is already a challenge for the largest firms. SRA research in 2020 found that 75 out of 100 large law firms had been targeted by cyber criminals. For legal SMEs, with far more limited resources, it is an even greater threat. Changing working patterns, the rise of hybrid

⁵ LawTech: a comparative analysis of legal technology in the UK and in other jurisdictions, the Law Society, December 2019. <https://www.lawsociety.org.uk/en/topics/research/lawtech-comparativeanalysis-of-legal-technology>

⁶ https://www.ncsc.gov.uk/files/Cyber-Threat-Report_UK-Legal-Sector.pdf

working, and increased prevalence of cyber criminals have all led to an increase in the threat faced by the sector.

Late last year, a cyberattack on an IT services provider supplying services to conveyancing and criminal legal aid firms caused significant disruption to law firms and consumers. Many firms lost access to the systems of the Legal Aid Agency and HMCTS, which caused disruption to legal aid payments and to ongoing cases. There were also significant delays to house purchases causing a great deal of distress to clients in homebuying transactions. Without legal sector-specific support on cybersecurity, law firms and the legal profession will continue to be a significant target for cyber criminals.

The NCSC's Funded Cyber Essentials Programme supports small firms with the challenges posed by cybersecurity. Organisations that qualify for the programme receive around 20 hours of remote support with an advisor who supports them with implementing technical controls and making changes to their organisation's IT systems if needed. However, places on the scheme are limited, and at present only law firms that provide legal aid can apply.

We know from the approach taken by the Welsh Government, which has, in partnership with the Law Society, funded law firms based in Wales to access the Cyber Essentials and Cyber Essentials Plus certification, that this type of support is important and valuable to firms.

The Government should expand the programme to provide more places for legal SMEs to benefit from this valuable support on cybersecurity.

We recommend:

- **Expand the NCSC Cyber Essentials Programme so more legal SME firms can access the support it provides.**

6. Fix the courts estate and the cases backlog

Our courts are a leading public service and an attractive asset to companies abroad looking to invest in the UK. The reputation of our justice system means England and Wales is the jurisdiction of choice for international businesses to resolve their disputes. However, backlogs in the courts and the collapsing state of many court buildings risks doing serious damage this reputation, with wider repercussions for our economy.

The Government has committed to reducing the backlog in the Crown Court to 53,000 cases by 2025. However, since the commitment was made the backlog has in fact increased to 65,077 cases as of November 2023. Investment in staff, practitioners and judges is needed so courtrooms do not sit empty for the want of a judge to hear a case or a lawyer to provide representation. Without urgent intervention and additional resourcing, the Government's target is unachievable.

The courts themselves are facing serious repair issues which is exacerbating the cases backlog. Preston Magistrates Court, Blackpool Magistrates Court and Harrow Crown Court have been closed due to the presence of reinforced autoclaved aerated concrete (RAAC). The closures across Lancashire have caused extensive disruption, with cases being delayed and others moved to courts further away adding significant travel time for victims, witnesses, defendants and practitioners.

Beyond the RAAC issue, the courts estate faces significant issues with disrepair. The Lady Chief Justice has said the courts face *"something like 100 unplanned courtroom closures*

every week".⁷ In recent months, a burst pipe led to the closure of Sheffield Crown Court, power outages required cases to be moved from the Rolls Building in London, and a member of the public was hospitalised by falling masonry at the Old Bailey.

These closures and repair issues require cases to be moved or delayed, adding additional stress for victims and costing individuals or businesses in civil disputes money.

To overcome this, the Ministry of Justice and HMCTS should be given the funding needed to ensure the courts are kept in working condition. This should extend to ensuring resources are available to remove and repair RAAC throughout the estate and make interim court facilities available so efforts to address the backlog do not go into reverse.

We recommend:

- **Provide courts with the funding necessary to carry out repairs, remove RAAC and replace lost capacity while repair works take place.**

7. Keep communities safe by investing in criminal legal aid

Our justice system should be world leading, but chronic underfunding of the criminal legal aid system is causing growing delays across the justice system and holding back efforts to keep communities safe.

Since 2017, 1,700 criminal duty solicitors have left the sector. Duty solicitors provide representation at the police station and are integral to ensuring cases advance quickly to court, while those without merit are dropped, freeing up police resources.

These dedicated public servants have been pushed out by unsustainable legal aid rates and poor working conditions. The continued decline in duty solicitor numbers shows that the Government's response to the Independent Review of Criminal Legal Aid (CLAIR) has not been enough to halt the ongoing collapse of criminal legal aid.

CLAIR called for an immediate across-the-board increase of 15% in all criminal legal aid rates.⁸ The Government instead went ahead with a 9% increase for solicitors, eventually set to rise to 11%. That increase, the first significant raise since the 1990s, has been subsumed by inflation, so in real terms, the position today is even worse than the dire situation considered by CLAIR.

The Government's approach created a shortfall of around £30m, which must be immediately committed to the system if the Government does not want to oversee the widespread collapse of criminal justice.

On top of the cost to the justice system, most criminal legal aid firms are small businesses. They are geographically diverse and provide skilled jobs in their communities. Their loss would be keenly felt by the villages, towns and regions they contribute to and serve.

⁷ <https://committees.parliament.uk/oralevidence/14108/pdf/>

⁸ Page 15,

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1041117/clar-independent-review-report-2021.pdf

If the Government provides the urgent investment needed in the criminal legal aid system, these firms can continue to support their local economies and bolster the Government's wider priority to level up our communities through good, well paid and skilled jobs.

We recommend:

- **Immediately invest £30m into criminal legal aid rates to make up the shortfall in the recommendations of the Government's independent review of the sector as a first step towards making criminal defence practice sustainable.**

8. Prevent the collapse of civil justice

Our civil justice system provides a route to redress for businesses and individuals across the country. When it works effectively, cases can be dealt with quickly and people and businesses can get back to their day to day lives.

For many on lower incomes, civil legal aid is their only route to justice. Yet due to historic underfunding the civil legal aid system today is in crisis.

The last decade has seen a drop of 77% in new advice cases funded by legal aid. This decline is in large part due to the fact it is no longer financially viable for providers to offer civil legal aid. Civil legal aid fees have not increased significantly since 1996, representing a real-terms cut of 49.4% in fees to 2022.

Polling shows 90% of people in the UK think civil legal aid is a good thing and want it to be available when they face life changing legal issues.⁹ This is the case for voters for all the main political parties. But many will find that when they need it, it is unavailable.

Our legal aid maps show deserts have opened up across England and Wales, where there is no local access to civil legal aid. This is especially acute in housing, where 42% of the population does not have access to a local housing legal aid provider. Lack of access to legal aid can mean housing problems quickly escalate. Disrepair issues can lead to health problems that increase the burden on the NHS, while evictions can end in homelessness that need to be resolved by intervention from local authorities and public services.

The Government has launched a welcome review of civil legal aid, but this will not report until later this year, with any recommendations likely taking well into 2025 to implement and reach those on the ground.

To properly sustain the system in the meantime, the Government should provide an immediate investment of £11.3m in civil legal aid for early advice. This figure represents a 15% increase in legal aid rates for initial advice and assistance and would be targeted at early advice, an important intervention point in civil legal aid. Early advice helps keep cases out of the courts and ensures that those that reach a hearing are the most contentious cases that need judicial intervention.

This investment would also support the Government's ambition to see greater use of mediation and alternative dispute resolution, as a lawyer can direct a client to the most appropriate form of redress for their case. This will likely save public money, as court time is saved for the most difficult cases, and these cases will be better prepared and therefore

⁹ <https://www.lawsociety.org.uk/contact-or-visit-us/press-office/press-releases/uk-public-overwhelmingly-supports-legal-aid>

progress quicker when they reach a hearing as litigants will have had the benefit of a lawyer's insight.

Early advice can also stop minor cases – for example, a housing disrepair issue – from escalating to a crisis point that can often require intervention from other parts of the state, like the NHS or welfare system, at further cost to the Exchequer.

We recommend:

- **Inject £11.3m into early advice for civil legal aid to prevent the system's collapse while the ongoing review takes place.**